Supreme Court, U.S.
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No. 99-1176

IN THE
Supreme Court of the United States

MCI COMMUNICATIONS CORPORATION AND SUBSIDIARIES AND TELECOM*USA, INC. AND SUBSIDIARIES,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

SUPPLEMENTAL BRIEF FOR THE PETITIONERS

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SUPPLEMENTAL BRIEF FOR THE PETITIONERS

The Court's decision yesterday in *Christensen v. Harris County*, No. 98-1167 (U.S. May 1, 2000), is highly relevant to the petition for certiorari in this case. In *Christensen*, the Court considered whether an opinion letter issued by a representative of the Department of Labor, without notice-and-comment rulemaking, was entitled to *Chevron* deference. The Court held that it was not, stating:

> Here, however, we confront an interpretation contained in an opinion letter, not one arrived at after, for example, a formal adjudication or notice-and-comment rulemaking. Interpretations such as those in opinion letters — like interpretations contained in policy statements, agency manuals, and enforcement guidelines, all of which lack the force of law — do not warrant *Chevron*-style deference . . . . Instead, interpretations contained in formats such as opinion letters are "entitled to respect" under our decision in *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944), but only to the extent that those interpretations have the "power to persuade," *ibid*. *See Arabian American Oil Co., supra*, at 256-258.
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> No. 98-1167, slip op. at 10 (U.S. May 1, 2000)

Petitioners can discern no meaningful difference between the opinion letter at issue in *Christensen* and the Internal Revenue Service Revenue Ruling at issue in the present case. Petitioners respectfully suggest, therefore, that the holding of *Christensen* is equally applicable to Revenue Rulings, and that such Rulings should not be afforded deference.

Under these circumstances, granting, vacating and remanding this case for consideration in the light of *Christensen* might be seen as the appropriate course. However, Petitioners urge that the Court instead grant certiorari and set this case down for full briefing and argument on the merits in light of the pervasive conflict among the circuits and the need for prompt and unambiguous resolution

by this Court of the Revenue Rulings deference issue. Such a prompt, definitive resolution would serve the interest of taxpayers and the government alike.

CONCLUSION

For the foregoing reasons, as well as those stated in the petition and reply, certiorari should be granted.

Respectfully submitted,

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